



Putting Your Business Team Together

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Business has become so complicated that it's nearly impossible to succeed at it alone. The law business has many of the same problems every small business faces. Back when I started practicing law nearly thirty years ago, there were lawyers who still tried to practice solo. There may even be a few of them left. I've tried my hand at it, and even as a "seasoned" veteran, it's not possible to run the best law firm without help.

One certainly cannot master all areas of practice, such as adoption, admiralty, condemnation, corporate, civil trial practice, criminal, juvenile and family, probate, real estate and zoning. Did I mention e-commerce law and a few dozen other specialties? Mastering the "A-Z" of the various areas of law is hard enough, but since lawyers are licensed one state at a time, they must also learn the local laws of each new jurisdiction and be licensed in any additional states (or countries) into which they want to expand their practice. Did you know, for instance that if your e-commerce site finds a customer in Canada, contract language must be in English and French?

The law "business" has become increasingly complicated as specialized areas of law increase and the big firms become more aggressive in marketing the expertise of specialists in areas such as zoning or securities law. The laws in each of these areas are constantly proliferating with new legislation and judicial decisions interpreting them. It's simply impossible to keep up with it all. Most lawyers, have therefore decided to specialize in a few possibly related areas, such as corporate, securities, employment, etc. That, of course, leaves pretty much everything else out. Some lawyers have banded together in mega firms with hundreds of lawyers, international locations, gigantic budgets and profits. Others have formed relatively smaller "boutique" firms in areas such as employment law, family practice, real estate, and many other areas.

DECISIONS, DECISIONS, DECISIONS

What also is left out of the discussion above is the "business" part of the "practice" of law. You have to market, of course, to clients so you have a steady stream of business. You don't really want them to think you are in fact "practicing," on them instead of having already mastered your trade. What should you charge, however? How do you collect if they don't pay and not violate the Fair Debt Collection Practices Act, for instance? How do you manage employees,

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presuming you have some? What kind of copy machine should you buy? What type computer or software programs or phone system should you get? Should you answer your own phone, hire a receptionist, get a system with voice mail and paging service or move to an office suites type place where they answer the phone for all the tenants? How much insurance and what types should you buy? What kind of stationary, furniture, employee benefits or personal retirement program should you put in place? Should you buy new toner for your copy machine or should you have a service bring you recharged cartridges?

Should you have a personnel manual, an e-mail and Internet browsing policy, let alone a sexual harassment policy, and are you increasing your liability instead of protecting yourself by putting these things in place? What about that office space and filing system? As a matter of fact, what should your data backup practice be? Should it be off site, or should you use one of those new Internet backup services? Should you have an Intranet or an extranet? Did you get the right kind of uninterruptible power source for your computer and will the “insurance” advertised on the box you bought it in really pay if there is a lightning strike which fries your hard drive.

Gee, maybe you could have gotten by with one of those 4-in-1 machines instead of buying a separate copier, fax machine, printer, and scanner. That might have saved money and a lot of space. Then, on the other hand, if it breaks, all four machines might be out of service at the same time. Clearly I’m no longer just talking about the law “business,” since most of these decisions, plus hundreds more, have to be made in any type of business these days, How can one person know all the answers and not make what could be a costly mistake? Get the picture?

GETTING THE PICTURE

I’m sure there are some “Renaissance” people around who are so talented and energetic that they seemingly can do it all. They are a rare breed, however. Upon closer analysis, many of these individuals are able to seem nearly super human in their talents and accomplishments due to a little “trick of the trade.” It’s called delegation. They can accomplish much more than mere mortals, in part, simply because they are not weighed down by all the “baggage” most of us carry around with us each day. Without diminishing their talents, much of what they are able to accomplish is due to their ability to avoid distractions and then focus, plan and execute. Without those common, day-to-day burdens which distract most of us from our mission, what could we accomplish?

The Renaissance entrepreneur will do a self-analysis of strengths and weaknesses. This individual will realize that his or her best efforts are spent in doing that part of the business at which they are most adept. This means doing a great job in an expeditious manner. A good job that is too expensive or which takes too long will probably not be considered a good job by the customer. The customer will more likely focus on the higher cost or missed deadline than on the quality of the job.

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I love to play with computers. I constantly have to remind myself, however, that it is more efficient and cost effective to hire someone to fix them than it is for me to stop doing legal work and crack the box open myself. Not only am I not getting paid at my rate as a lawyer, but I'm also falling behind on various time sensitive projects for my clients. Unless you plan to remain a one person shop forever, you will eventually have to find people to help you and leverage your 24x7 work week.

ENTREPRENEUR, MANAGER, TECHNICIAN

Seemingly the easiest way to leverage your time is to hire someone to assist you. Before that, however, you must fully understand your own strengths and weaknesses. After all, what will you continue to do and what will you delegate to the new individual? In "The E Myth" by Michael Gerber, he describes the three types of people who go into business. Actually, he says "everybody who goes into business is actually three-people-in-one: The Entrepreneur, The Manager, and The Technician." The Entrepreneur lives in the future and is happiest when left alone to ponder the "what-ifs." The Entrepreneur is the creative type looking for a new way of doing things, finding new markets for existing products or services, and "engineering chaos into harmony" although creating a great deal of chaos around him as he tries to change the status quo.

The entrepreneur often finds that people get in the way and are merely an asset to be managed, as much of an inconvenience or necessary evil as anything else. Since people are in the way, the management style may be overly dictatorial and impersonal, thus diminishing the true leadership asset of team building and loyalty creation for the sake of establishing control as quickly as possible.

The next category Gerber describes is the manager, who is the pragmatist in the group. While the Entrepreneur lives in the future, the manager lives in the past, attempting to maintain the order of the status quo. Where the entrepreneur sees opportunity, the manager sees problems. Put another way, Gerber tells us the entrepreneur builds a house and immediately wants to sell it and move. The manager buys a house and never wants to leave. The entrepreneur creates things and the manager sweeps up after him and puts those newly created things in nice neat rows. The manager cleans up the messes, but without the entrepreneur there would be no mess nor job created related to cleaning it up. Without the manager, there would be no business.

The third category Gerber describes is the Technician, who simply want to do the work. He feels that if you want it done right, you must do it yourself. The Technician lives only in the present, only wanting to do one job at a time. He doesn't want to think, feeling it is a waste of time unless it involves developing a methodology to get the job done. The technician can be difficult to work with. The entrepreneur is a distraction, constantly changing the focus of the work and the rules. The manager is a thorn in his side, because he is always trying to systematize the technical work and make the normal fierce independence of the technician comply with the organizational and procedural rules of the business. Both the manager and

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the technician feel the entrepreneur is the problem. Since they themselves cannot agree on where the entrepreneur went wrong nor where they should head instead, they all can end up in a conflict with the entrepreneur. It may be at that point that the technician starts to disappear from the forefront. He later is found to have started his own business doing the same technical work, largely so he can control it and not have to listen to the entrepreneur or manager.

In my law practice, counseling entrepreneurs at the start-up stage, I really didn't realize the truth of Gerber's characterization of the technician. Looking back over nearly 30 years of practice, I now see that a very substantial number of my business start-up clients, many of whom presented themselves as having been forced out of the ability to continue with their former employer or partners, may have simply grown weary of this disharmony of perspective on what is important. The stories are widely divergent, as to why they came to me to help them start a business, but in retrospect, the common thread of many is that others were really getting in the way of them doing "the work" the way it should be done. They on the other hand, knew how to do the work and wanted to set up a company to really do it right. This probably is good for the quality of the work, but, as Gerber says, is a disaster for the business because "the Technician is in charge!" The technician believes that the business is simply an aggregate of various jobs. The focus is on the quality of the jobs, rather than on the strategy of giving the customer what the customer wants. After all, "the customer is always right."

THE TEAM APPROACH

In my corporate and e-commerce law practice, I stress the team approach. As my clients know, for many years I have distributed a client cross-marketing handout so a client who comes in for one service will know we handle many others as well. The first page of that document contains the following language:

"TEAM APPROACH. We often find it appropriate to counsel our business clients as part of a team. We typically work with an accountant, insurance agent, financial planner, realtor, computer or technology consultant, or other professional in order to make sure all the bases are covered from the start. We often receive requests for help from these types of service providers to small and start-up businesses and we will try to make referrals for our clients to professionals in these and other fields, when appropriate."

Keep in mind, when putting your team in place, that it's not just the talent of the members that you must focus on. Certainly that is one of the critical criteria, along with compensation requirements, availability and other intangibles. Honesty and integrity are majors issues which may be hard to investigate. Having a similar personal and professional vision can be a deal breaker. The chemistry the team members have is also critical. An ultra talented individual can be your greatest asset or can break up the company because of conflicts with others. There are lots of ways to get personnel for your new company, aside from having to hire them full time.

PARTNERING

Taking on a partner is a major change in the way a business is run. If the chemistry of an existing partnership has worked well, taking in a new partner will change that chemistry. It may be for the better or worse but it will change the mix. If the sole owner has been accustomed to making all the decisions and answering to no one, that will change.

An equity partner or a major stockholder has a right to protect his or her investment by “seeing the books” and voicing an opinion on how the company is run. If things were perfect, you probably wouldn’t be at the point where the “partner” was coming into the business. Make sure personalities, goals, management styles, and work habits are compatible.

One key to making partnerships work is to put it all down in writing. Make sure your complete understanding is in writing. That includes price of admission (money, time and property); consequences of the business going bad; management and labor responsibilities; duty to provide additional money or security for business loans; ability to bind the business financially and by actions; transferability of interest in the event of death, disability, retirement, or mere desire to get out; ability to compete with or disclose proprietary information of the business upon departure.

A good partnership can reduce the risk to the original owner(s), enhance the ability of the management team to see reality, infuse the business with new money, bring in new skills, and much more. It will also result in a smaller share of any profits for the original entrepreneur and change the complexion of the business forever.

EMPLOYEES

Its much easier to hire an employee than to fire one. It seems to be much easier to find a poor employee than a good one. It is easier to lose a good employee than to retain one. Compatibility between a new employee and the current entrepreneur (and other employees, if any) is subject to most of the same issues as is the search for a good partner.

An employee requires a substantial investment of the entrepreneur’s time and money. Many entrepreneurs shy away from hiring an employee because of the well founded fear of the additional money and paperwork associated with having an employee. They may forget, however, about the additional training time, equipment, management and supervision required to make an employee productive.

Time and money spent on an employee must be diverted from other needs of the business. This is based upon the gamble that some aspect of the business can be leveraged into greater profitability by use of the employee’s time and effort. Many entrepreneurs make the mistake of training an employee only to lose them to a higher paying or more attractive job once they become fully trained and able to justify the investment made in them.

Managing employees is nearly an art form. Obviously, compensation is a key issue. This can include not only pay but the benefits that go with a “good” job. It can be possible to induce good employees to your business by lures other than money.

Flexible hours and conditions are high incentives to employees with small children and other family or business obligations. Job sharing and multiple part-time employees can result in filling your “position” in nontraditional ways. Many employees are willing to take less pay if medical insurance and other benefits are available. Be creative and keep an open mind. Don’t rush into what could be one of the most important decisions in your business.

You must also be prepared to lose your good employees. Make sure you know what they know. Keep an owner’s “cookbook” of your employee’s functions. You may have to perform them yourself or train someone else to do so. Employees get sick, take vacations, become disabled, retire, etc. Treat them right, be fair, and induce loyalty by your actions, compensation and other incentives.

Make sure your administrative work is in good shape. A high percentage of businesses that get in trouble arrive at that point because of failure to properly withhold employee taxes and other employer payments. Workers compensation and unemployment insurance payments must be kept up to date. What could be worse than an injured or terminated employee coupled with administrative or tax problems. Just when your key employee is out or gone and you need to put things back on track, you get double trouble if you have not kept up to date with your payments and paperwork.

CONSULTANTS

Management, production and other consultants can be an alternative to either hiring an employee or gearing up with more expensive equipment. Before investing in either, the wise entrepreneur might consider hiring an outside consultant to help fine tune the business.

There may be other more efficient ways to get the job done. A top notch consultant, although expensive, can often be worth many times the fee over a fairly short time period. They can help avoid mistakes in judging technological or market trends. They may be aware of sources of help to the entrepreneur which can be purchased on an as needed basis rather than the entrepreneur making a major cash purchase which might not be justified over time.

Consultants should be carefully interviewed and checked out for references. There are large numbers of instant consultants afield looking for your business. You have a right and duty to your business to ask for proof they have handled several businesses like yours and similar problems. They should not be bashful about providing references you can look into.

INDEPENDENT CONTRACTORS

There is a great battle going on these days between small business and taxing authorities. The battle is over the issue of categorization of personnel working for the business as “independent contractors” rather than employees. Almost always, the small business will lose. Even if the employment audit is won by the entrepreneur, the cost to the entrepreneur of time, expert fees, and loss of other resources diverted from the business to wage the fight, will weigh heavily upon the business.

The rules of the battle are largely determined under what is commonly referred to as the IRS 20 point test. This is a list of certain criteria which was used by the Internal Revenue Service and others to determine if someone is an employee or independent contractor. This has changed somewhat but the essential elements of the test are still a factor. There is no magic answer to the “test.” The test is largely cumulative but some items and combinations of items hold more weight than others. Certainly, when more than a few of the characteristics of an employee are present for the person under consideration, the likelihood increases of designation as an employee.

In addition, it is important to note that if you have an employee doing essentially the same thing as an independent contractor, or if you have used the same independent contractor for a substantial period of time, you increase the risk of designation as employee. Many businesses try to get around the high cost of worker’s compensation insurance, unemployment insurance, FICA, FUTA, etc., by designating an individual as an independent contractor, rather than as an employee. The cost of a mistake here is extremely costly.

There are other options, of course. There are payroll services, and human resource companies that essentially lease your employees back to you, handling all the benefits, hiring and other government regulatory matters for you. These services decrease your control, but they can provide expertise and save you the cost of an employee you must hire, manage and compensate, who would otherwise have to dedicate to these tasks. Freeing yourself of tasks which you are not good at is the key, as long as you can monitor and correct if necessary. The options are increasing, so take advantage of this and pick the ones which will help you and your business the most. You too may become a Renaissance Entrepreneur.

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